



Malta

Country Reports on Human Rights Practices - [2004](#)

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Malta is a constitutional republic and a parliamentary democracy. The chief of state (President) is appointed by the unicameral Parliament. The President appoints as Prime Minister the leader of the party that gains a plurality of seats in the Parliamentary elections. General elections in 2003 returned the Nationalist Party to power. During the year, the country joined the European Union and elected representatives to the European Parliament. The judiciary is independent.

The Police Corps is responsible for internal security, for maintaining law and order and for enforcing the law, with backup support from the armed forces. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The economy was a mixture of state-owned and private industry, with manufacturing and services, including tourism, the largest sectors. Residents enjoyed a moderate to high standard of living. Per capita income was \$11,704. The population is approximately 399,000. The estimated nominal gross domestic product growth rate during the year was 2.1 percent.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of addressing individual instances of abuse.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Men and women were held separately, as were juveniles and adults. Pretrial detainees were also held separately from convicted prisoners.

The Government permits visits by independent human rights observers; a delegation from the Council of Europe's Committee for the Prevention of Torture visited the country during the year.

d. Arbitrary Arrest or Detention

The Constitution and the law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions.

The Police Corps maintained internal security with backup support from the armed forces. The armed forces were responsible for defense, with an emphasis on protecting the country's territorial waters and airspace. The appointed commissioner who commands the police was under the effective supervision of the civilian Minister of Justice and Home Affairs, while the commander of the armed forces was under the direct supervision of the Prime Minister.

The police may arrest a person for questioning on the basis of reasonable suspicion but within 48 hours must either release the suspect or file charges. Arrested persons have no right to legal counsel during this 48-hour period. Persons incarcerated pending trial were granted access to counsel. Bail normally was granted. Detention cells were in use at police headquarters.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

In a case that drew considerable attention in the local media, criminal corruption charges remained outstanding against a former Chief Justice and a second judge who resigned over bribery charges in 2002. At year's end, no date had been set for a trial.

The President, on the advice of the Prime Minister, appoints the Chief Justice and 16 judges. The highest court, the Constitutional Court, interprets the Constitution and has original jurisdiction in cases involving human rights violations and allegations relating to electoral corruption charges. The Civil Court of Appeal hears appeals from the civil court, court of magistrates, and special tribunals, while the Court of Criminal Appeal hears appeals from the criminal court.

Criminal courts, composed of a judge and nine jurors, hear criminal cases. The civil court's first hall hears civil and commercial cases that exceed the magistrates' jurisdiction; the civil court's second hall offers voluntary jurisdiction in civil matters. The court of magistrates has jurisdiction for civil claims of approximately \$2,900 (1,000 Maltese lira) and for lesser criminal offenses. Juvenile courts hear cases involving persons less than 16 years of age.

The Constitution provides for the right to a fair public trial before an impartial court, and an independent judiciary enforced this right. Defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants enjoy a presumption of innocence, may confront witnesses and present evidence, and have the right of appeal.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; violations were subject to effective legal sanctions.

Police officers with the rank of inspector and above were allowed to issue search warrants based on reasonable grounds for suspicion of wrongdoing. Under the law, special powers such as telephone tapping are available to the security services only under specific written authorization of the Minister for Home Affairs or the Prime Minister; such actions are permitted only in cases related to national security, including combating organized crime. Authorizations are examined by a special commission and security committee; the Prime Minister, the leader of the opposition, and the Ministers of Home and Foreign Affairs were on this committee and oversaw the service's work.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the law prohibits foreign participation in local politics during the period leading up to elections, although this provision rarely was used. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

The independent media were active and expressed a wide variety of views without government restriction. The international media operated freely.

In July, the Broadcasting Authority, an independent statutory body that is responsible for television and radio broadcasting, fined an independent television station for broadcasting an interview with an independent candidate for the European Parliament on the grounds that his statements as broadcast could incite racial hatred or encourage criminality in breach of the law. The station filed a counter lawsuit in response. The case was ongoing at year's end.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution establishes Roman Catholicism as the state religion.

There are numerous non-Catholic religious groups, including an Islamic community and a small Jewish community, practicing freely.

The Government and the Catholic Church participated in a foundation that finances Catholic schools. While religious instruction in Catholicism was available in all state schools, the Constitution establishes the right not to receive this instruction if the student or guardian objects. This right was practiced freely.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution prohibits forced exile, and the Government did not employ it.

The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. A magisterial inquiry that investigated the 2002 case of 220 persons deported to Eritrea, who subsequently disappeared and were believed to have been killed, found no evidence of irregular or illegal practices and concluded that the Government had exercised due discretion and diligence throughout the entire deportation process and had provided the Eritrean nationals full information about their rights. This included the right to request refugee status, which the Eritreans did not request.

The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The law provides for refugee status, access for refugees to free social services and education, residence permits, and travel documents. Work permits for refugees were issued on a case-by-case basis. A refugee commission and an appeals board review asylum applications.

The law provides that due process and protections be made available to refugees applying for asylum. During the year, some procedural amendments to the law were enacted, including provisions for the appointment of assistant refugee commissioners and procedures for the establishment of additional chambers of the Refugee Appeals Board. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol and provided it to approximately 560 persons during the year.

During the year, the refugee commission received 997 applications for refugee status. It approved 49 of these and refused 259; 141 remained pending and included some applications that were filed in previous years; and 560 persons were offered temporary humanitarian protection. Approximately 20 applications were withdrawn.

In order to handle the increase in refugee and asylum seekers, the Government began identifying sites for new centers for detained immigrants. In addition, the Cabinet assigned to the Ministry for Family and Social Solidarity responsibility for the welfare, accommodation and general management of persons released from detention. The ministry was also responsible for welfare services provided to detainees. Irregular immigrants awaiting a decision on their cases occasionally protested against being detained or attempted to escape.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens could freely choose and change the laws and officials that govern them. Parties and candidates may freely propose themselves for public office. Candidates can propose themselves either as independent or as affiliated with a party. The last general election was held in April 2003.

There were 6 women in the 65-seat House of Representatives. Two women held ministerial rank in the 14-member Cabinet. One woman was Parliamentary Secretary. There were four women in the Magistrates' Court. Approximately 13 percent of senior government officials were women. One woman, a former ambassador, was appointed Permanent Secretary at the Ministry of Foreign Affairs, the most senior civil service position within the Ministry.

There were no members of ethnic or racial minorities in the House of Representatives or the Cabinet.

Section 4 Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human

Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The country has a presidentially appointed ombudsman who is responsible for conducting investigations of government operations on his/her own initiative and in response to complaints or grievances lodged by citizens against government departments and public entities. The Office of the Ombudsman operated independent of government or party influence and exercised its duties freely.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution and law prohibit discrimination based on race, place of origin, political opinion, color, creed, or gender. Alleged victims of job discrimination were allowed to apply directly for redress to the Employment Commission of the first hall of the Civil Court in the appropriate jurisdiction.

Women

During the year, reports of domestic violence against women showed a small decrease. During the year, the Police Domestic Violence Unit received 233 reports of domestic violence, an average of 19 per month, compared with 260 reports for 2003 or an average of 22 per month. A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hotline to assist victims of abuse through counseling and referrals to legal assistance shelters. The Government provided support to victims of domestic violence through the Department of Welfare for the Family and its Social Welfare Agency known as Appogg; a Government-supported shelter for women and children operated during the year. The Government also maintained an emergency fund and subsidized shelters. The Government provided financial support to a shelter operated by the Catholic Church.

Rape and violent indecent assault carry sentences of up to 10 years' imprisonment. The law treats spousal rape in the same manner as other rape. Divorce is not available. However, if obtained legally abroad, it can be enforced in the country. Both legal separation and civil annulment are available.

Prostitution is a criminal offense. Although exact figures were not available, there were a number of prosecutions during the year. The law was enforced in such cases and included prison sentences of between several months and 2 years.

The Constitution provides that all citizens have access, on a nondiscriminatory basis, to housing, employment, and education.

There has been a significant increase in the number of women pursuing higher education. In 2003, women university graduates outnumbered their male counterparts. There has been an increase in female participation in courses such as information technology and engineering, while the law student body was mainly made up of women.

While women constituted a growing portion of the work force, they were underrepresented in management and generally earned less than their male counterparts.

During the year, the Council of Europe Parliamentary Assembly suspended the voting rights of the country's delegation at an Assembly session because it did not include a woman. The Parliament subsequently changed the composition of the delegation to include a female representative.

During the year, the court found a commercial cargo handling company owned by the largest trade union, the General Workers Union, guilty of gender-based discrimination against three female employees and was ordered to pay damages to the employees.

The Ministry for the Family and Social Solidarity and the National Commission for the Promotion of Equality for Men and Women, set up during the year, handled gender equality issues. The Commission's program focused on broader integration of women into society. It advised the Government on the implementation of policies in favor of equality of the sexes.

Women enjoyed equality in matters of family law, and the Government promoted equal rights for all persons regardless of gender. The Government took steps to provide gender-neutral legislation, and redress in the courts for sexual discrimination was available.

Children

The Government was strongly committed to children's rights and welfare. It provided free, compulsory, and universal education through age 16. Close to 100 percent of school age children attend school. The Government provided universal free health care to all citizens.

The Government addressed concerns for children's rights and welfare within family law. A law establishing the Commissioner for Children to oversee children's rights came into force in December 2003, and the commissioner was appointed in January.

The number of reported cases of child abuse increased from the previous year, although there was no societal pattern of abuse of children. As of the end of June, 516 cases of child abuse had been reported. Prison sentences were handed down in a number of cases involving sexual abuse of minors.

All criminal proceedings related to the family, particularly cases involving children, were transferred from the Magisterial Courts to the newly established Criminal Section of the Family Court.

Trafficking in Persons

The criminal code prohibits trafficking in persons. During the year, the Criminal Court handed down a jail sentence in the case of three persons who were found guilty of trafficking foreign women for the purpose of sexual exploitation, but the sentence was suspended. The law prohibits procurement for prostitution, pornography, sexual offenses, defilement of minors, illegal detainment, unlawful carnal knowledge, and indecent assault. Traffickers may be prosecuted under the criminal code or under the Immigration Act for unlawful entry or unregulated status.

Persons with Disabilities

There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

The law requires the private sector to apply the same equal employment guarantees as exist in the public sector. For example, private development project plans must include access for persons with disabilities. The Employment Training Corporation was responsible for registering unemployed persons with disabilities to ensure compliance with the law, which requires that every company employing more than 20 persons hire at least 2 percent of its workforce from the Register for Unemployed Disabled Persons.

National/Racial/Ethnic Minorities

A few thousand persons of Arab, African, and Eastern European origin lived in the country. Owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments.

The law criminalizes racial hatred, but no court cases were reported by year's end.

Section 6 Worker Rights

a. The Right of Association

The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. Approximately 63 percent of the work force was unionized. Although all unions were nominally independent of political parties, the largest, the General Workers' Union, generally was regarded as having close informal ties with the Labor Party. Noncivilian military and police personnel are not allowed to strike or to join a union.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for workers to organize and bargain collectively, and they did so in practice. Under the law, the responsible minister may refer labor disputes either to the Industrial Tribunal (a government-appointed body consisting of representatives of government, employers, and employee groups) or to binding arbitration at the request of only one of the parties. Workers have the right to strike, and they exercised this right in practice. There are no special laws or exemptions from regular labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Government prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than age 16. The Department of Labor enforced the law effectively but allowed summer employment of underage youth in businesses operated by their families; some underage children were employed as domestics, restaurant kitchen help, or vendors.

e. Acceptable Conditions of Work

The weekly minimum wage was approximately \$140 (48 lira) for persons under age 17; \$144 (50 lira) for 17-year-olds; and \$152 (52 lira) for persons aged 18 and over. In addition, an annual mandatory bonus of approximately \$620 (214 lira) was paid, as well as a one time per year \$110 (38 lira) cost of living increase allowance. This minimum wage structure provided a decent standard of living for a worker and family with the addition of government subsidies for housing, health care, and free education.

Wage councils, composed of representatives of government, business, and unions, regulated work hours; the standard workweek was 40 hours, but in some trades it was 43 or 45 hours. Government regulations provide for a daily rest period, which is normally 1 hour, and 1 day of rest per week. The law mandates an annual paid vacation of 4 workweeks plus 4 workdays. The Department of Labor generally enforced these requirements.

Enforcement of the Occupational Health and Safety Authority Act was uneven, and industrial accidents remained frequent. Workers were allowed to remove themselves from unsafe working conditions without jeopardy to their continued employment, a protection also enforced by the Department of Labor. Allegations of physical and sexual abuse existed, but they were rarely made public, and even more rarely were they the subject of court proceedings.